

2013 Arbitration Awards - Minnesota B.M.S.

March 10, 2016

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/admin/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospitals & Clinics d/b/a/Mercy Hospital SEIU Healthcare Minnesota	Beens, Richard	Termination	Hospital registrar violated protected health info when checking a friends record for accuracy (ee listed as her friends emergency contact).	Sustained	Legitimate business reason to access file. Detailed discussion of zero tolerance rules vs. just cause standard..
13-PN-0350	Faribault County (Interest Award) Association	Kircher, Andrea	Interest	Jail & Dispatch. Wages:'12-1.25%-e (u-3%+3% adj),'13-0% (u-1.5%+1.5%). Insur-mandatory single participation-e.	2012 - 1.25% 2013 - 0%	Lowest fund balance in state. Internal pattern. April arbitration award for deputies awarded same amounts.
13-VP-0770	ISD 402, Henricks (Award-August) ISD 402, Henricks (Damages) ISD 403, Ivanhoe	O'Toole, Carol	Breach of Contract	Hendricks & Ivanhoe school districts had a contract to divide elementary & secondary classes.	Ivanhoe ISD breached contract	Contract renewed every 2 yrs unless notice by Jan 1. Ivanhoe opted out in June. Hendricks awarded \$1.2 m.
14-PA-0135	ISD 696, Ely Ely Education Association	Frankman, Janice	Severance Pay	What is daily rate of pay to calculate service? 190 days used since 1976. 180 duty days+10 holidays?- Union no.	Sustained	Ely principal arbitrated issue Nov.2012. Arb Orman denied citing past practice. Practice, unkn & unchallenged by the Union doesn't defeat contract language.
13-PN-0672	Lyon County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Jail Sgts. Add vacation step at 7 years of 17d/yr.-u. (Current 15d until 15yrs.)	Union position	Internal pattern is egregiously below market. Max accrual not increased.
14-VP-0164	Metro Transit Individual Grievant	Bognanno, Mario	Termination - V.P.	Probationary bus driver received 9 customer complaints for running late.	Denied	Received counseling after each event. Probationary ees normally fired after 2.
14-PA-0142	Oakdale, City of Law Enforcement Labor Services, Inc.	Scoville, James	I.O.D. pay.	Officer sprained ankle in February had surgery in June.	Sustained	Treatment consistent with injury and doctors advice.
13-PA-0756	Prior Lake, City of Teamsters Local 320	Johnson, John	Educational Incentive Pay	Was Sgts eligibility for Ed pay based on date of promotion into Sgt's Union or initial hire as an officer? - initial hire.	Sustained	Ambiguous language is less favorable to party supplying language. Similar issue diffnt results Northfield Oct '12,Kirchner..
13-RA-0533	SuperValu, Inc. Teamsters Local 120	VerPloeg, Christine	Termination	Warehouse worker used racial slur vs co-worker & possessed marijuana.	Denied	2 policies call for discharge. Witnesses did not testify. Statements sufficient.

November, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PN-0584	Aitkin County Teamsters Local 346	Frankman, Janice	Interest	Jailer/Dispatcher wage reopener. 2013 wages-1.8% (e-0%, u-3%) Reduce # years between steps-n-e. Shift diff. from \$.20 to \$.68-u. (e-\$.20).	2013 - 1.8%	U pattern 0%+steps; non-union merit plans received 1.8%. No rationale to compare merit&steps so 1.8% awarded Shift diff = avg of comparison group.

13-PN-0704	Forest Lake, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Officers. Change Discipline lang-n-u; Chng Med Leave-no-u; Unifrms'13-900 14-325-u (e-875,900), '15-no incr-e; Insurance-'13 no incr-e,'14,'15-reopener-u, exclude new ees from 100% plan-n-u; HCSP-15m,20m, 25m-u (e-\$10m); Ed incentive-n-e; Wages-0, 1.5, 2.5-e (u-2,2,2).	2013 - 0% 2014 - 1.5% 2015 - 2.5%	Discipline/Med leave/New ees bar from 100% plan/Ed incent-failure to show problem or offer quid pro quo. Uniforms/ HCSP-history of incrs justified awarding more than Sgts. Insur '13-pattern, '14 & . 15 deviate from pattern-only minority of unions settled. Wages-pattern.
12-PA-1165	ISD 283, St. Louis Park St. Louis Park Principals Association	Gallagher, Thomas	10 day susp. & Transfer or demote	Principal failed to follow up complaints re teachers; invstge student misconduct; failure to communicate w staff & parents.	3 day susp.	No prior discipline. Most performance problems due to inexperience. Transfer to Principal on Sp Assgnmt was allowed.
13-PN-0704	ISD 309, Lake of the Woods (Interest Award) AFSCME Minnesota Council 65	Miller, Richard J.	Interest	Supervisory-1st contract. Normal work week-comb of proposals; Pay for mtgs-no-e; Inclement weather-e; Longevity-u; Vac-e; Sick-combination; Severance-from indv contracts; Insurance-e, but ees will get their current amts; Dental-no-e. Paydays-e; Salary schedule-no award; wages 2%, 2% based on current pay.	2013 - 2% 2014 - 2%	1st contract. No award on salary schedule-positions too diverse-should be negotiated in future. Wages-more than amt offered to teachers due to no increases for 6 yrs. Wages, Insurance & Severance amounts from employees previous individual contracts.
13-PA-1004	ISD 2859, Glencoe-Silver Lake Education Minn.- Glencoe-Silver Lake	Jensen, Eugene	Advisor/Advisee Period limits	State mandated anti-bullying training given during expanded 4th period to Advisor/Advisee class twice a month. A/A period training limited to once/mo.	Sustained	A/A period defined by participants, not when scheduled. Teaching, despite no required prep or testing. No remedy in contract. Parties told to negotiate.
13-PA-0936	Mooheard Public Svs Commission Electrical Workers Local 1426	Reynolds, James	In-Charge Pay	If only 2 ees, is one paid for being in charge of "2 or more employees"?-yes.	Sustained	Language doesn't say "two other employees".
11-PA-0933	North St. Paul, City of Law Enforcement Labor Services, Inc.	Yaeger, Thomas	Overtime vs. 2080 time	E would not pay OT for training since officer fell short of his 2080 hr. obligation.	Sustained	Work authorized by ER in excess of regular scheduled shift= OT per contract.
FMCS	Red Wing Shoe Company UFCW Local 527	Daly, Joseph	Termination	Violated no-fault Attendance Policy by taking 1 day vacation w/o approval.	Sustained	Company allows supervisory discretion which led to unequal treatment
13-PA-0880	St. Paul, City of St. Paul Police Federation	Kircher, Andrea	Termination	Officer fired pistol in his backyard, 10 times at 2:45am while drinking w friends.	Denied	5 yr. officer w no discipline, but violation of law, dangerous situation & lied to IA.

October, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
???	Aikin County AFSCME Minnesota Council 5	Kircher, Andrea	Change FT into 2 PT positions.	Can ER convert full time position to 2 part-time positions?-Yes, mgmt. right.	Denied	Arbitrable-y-u. Need to bargain-n-e (positions vacant; PT already in contract).
13-PN-0331	Albert Lea, City of (Interest Award) Minnesota Public Employees Assn	Flagler, John	Interest	Wages: 1.75%-e (u-2%+1.5% market adjustment)	2013 - 1.75%	Internal pattern.
FMCS	Medical Center SEIU Healthcare Minnesota	McCoy, Arthur	Termination	Medical records were redacted, then given to Union showing breach of contract.	Sustained	Protected union activity.
12-PA-1239	Crystal, City of Law Enforcement Labor Services, Inc.	Wallin, Gerald	12 hr. suspension	Officer made 4 inappropriate DVS searches. 12 hrs. = 1 day.	Denied	Violation of State & Federal law. Received training prior to violations.

???	Dakota County Teamsters Local 320	Jacos, Jeffrey	1 day suspension	Program service asst. failed to notify jail to prepare prisoners for transport.	Denied	Failed to follow proper procedure & there was negative impact.
FMCS	G4S Regulated Security Solutions Association Local 28	Beens, Richard	Written Reprimand	Armed guard's partner failed to "sling" rifle when she told him. Failed to coach.	Sustained	ER failed to conduct a through invest. No face-to-face opportunity to explain.
12-PA-0659	Mendota Heights, City of Law Enforcement Labor Services, Inc.	Dunn, Richard	4 day suspension	Officer's chronic complaints on female officer violated City's harassment policy.	2.5 day susp.	Retaliation claimed by 2nd officer not supported by evidence.
13-PA-0845	Metropolitan Council Amalgamated Transit Union Local 1005	Orman, Anthony	Termination	Bus driver charged w criminal sexual conduct & barred from contact w children. Restriction modified allowing contact if bus is video monitored.	Sustained	ER claimed monitoring ability was overstated. But Arbitrator faulted lack of investigation over bail restrictions. Ordered return to work w back-pay.
FMCS	Mille Lacs Energy Cooperative Electrical Workers Local 31	Bognanno, Mario	401(K) Plan	Contribution not given to probationary ees. Contract says "each ee & "every" pay period.	Denied	401(K) plan defines eligibility, and the Contract references the "plan offered by the Cooperative".
13-PA-0232	Psychology ASFCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Spotty attendance, failing to call in sick prior to start of shift, using leave after FMLA exhausted..	Split	Insufficient cause, can return to work upon showing she is medically able. No back pay. 16 month off considered medical leave due to her Doctor's note.
13-PA-0469	Ramsey County Teamsters Local 320	Fields, Bernice	Lateral Transfer Contract vs Policy	ER did not like candidates for position. ER's Policy was waived; person without the minimum qualifications selected.	Sustained	CBA is the master document. Policies written to interpret & implement CBA are subordinate. Position vacated.
13-PA-0846	University of Minnesota Painters, Allied Trades Local 61	Moeller, Lon	Voluntary Quit	Painter requested leave for surgery. ER claims he abandoned job by not filing proper forms.	Sustained	No proof he was given policy manual on long term leave requirements. As shop steward protected from lay off.
13-PN-0513	Wadena County (Interest Award) Teamsters Local 320	Befort, Stephen	Interest	Deputies: 3yrs-e (u-1yr), '13-2%-e (u-3%+\$1.50), '14-3%-e (u-3%+\$1.50), 2015-2.5% (e-2%, u-3%). New mgmt. rights & maintenance of standards lang-n-u; Eliminate "me too"-y-e. Uniform increase-u. Insurance-e. Shift diff-change hrs.-n-e, +\$.10 to \$.50 hr.-u. POST training-n-e.	2013 - 2% 2014 - 2% 2015 - 2.5%	Duration & wages-internal pattern; 3rd yr. 2.5%-market. Language changes-lack of compelling need. Insurance & "me too"-internal pattern. U wanted ER to pay for PIEP if ees leave Co. insurance plan - no, contrary to plan objectives.

September, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PN-0482	(Interest Award) Minnesota Public Employees Assn	Flagler, John	Interest	Corrections. 1.5%, 1.5% (e-1%, 1%; u-2%, 2%). Shift diff-no incr-e (u-\$.30/h) Sick leave bank-no-e. Create Sr. Shift position-no-e. Bar using reprmd after 2y.	2012 - 1.5% 2013 - 1.5%	Wages external avg+.5% 2012 due to prior wage freeze. Creating position-arbitrator has no authority. Reprimand language written by arbitrator.
13-PN-0553	Crow Wing County (Interest Award) Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Corrections. Wages-e (u-2%, 2%); Holiday hours = to shift hours-n-e; IOD language-y-u.	2012 - 0% 2013 - 0%	Wages internal (with 4 settlmnt models) Hol:2 of 5 sheriff groups have benefit didn't show need. IOD-intrnl & need.
13-PN-0590	Dakota County (Interest Award) Dakota Co. Attorney Employees Assn.	Gallagher, Thomas	Interest	General increase-2%-agree; Merit-e, Salary range-4.5%-u (e-2%).	2013 - 2%	General & Merit-internal. 4.5%Salary range:(2.5% behind market (e at 2%))

13-PN-0305	Eveleth, City of (Interest Award) Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	Officers: 3yr-e (u-2); Wages-e (u-3% 2.5%.2.5%); Longevity-\$10m (neither side requested this); Vac carry over to end of following yr.-u (e-April); Insur & VEBA contribution-e; Requiring note for Dr visits-no-u; Semi-annual VEBA contrb-e	2013 - 2.5% 2014 - 2% 2015 - 2%	Duration internal pattern & eliminates whipsaw bargaining. Wages VEBA and insurance-internal pattern. Longevity not certified or requested, but a subset of wages. U argued low pay in market if longevity considered.
13-PA-0536	Hopkins, City of Hopkins Police Officers' Association	Miller, Richard J	1 day suspension	Insubordinate by viewing Dept video security to see what Chief was doing re IA on another officer & telling others.	Wrtn reprmnd	No prior discipline. Infraction similar to another officer who received reprimand.
13-PA-0562	ISD 316, Greenway AFSCME Minnesota Council 65	Paull, David	O.T. Pay	ER changed calculating OT based on hours paid (vac etc.) to FLSA standard.	Sustained	Binding past practice. "Mutuality" and not "knowledge," is what is required
13-PA-0605	Inver Grove Heights, City of AFSCME Minnesota Council 5	Bognanno, Mario	Lay-Off	Senior building inspector laid off; "relative ability" seniority clause.	Denied	Inferior work performance undermined better technical knowledge.
12-PA-1055	Lakeville, City of Association	Kapsch, Frank	O.T. on Holiday	Officer called in for Holiday, paid OT + Holiday pay. Seeking OT on Hol. Pay.	Denied	No contract language re: holiday premium & 20 years past practice.
IT-11-02	Universities Minnesota State College Faculty	Jensen, Eugene	Layoff Job reclassification	Laid off from teaching Computer Tech - not hired to teach Computer Science.	Denied	ER has credentialing authority. EE did not have qualifications for new position.
???	Natural Resources Association	Fogelberg, J.C.	Demotion	DNR pilot falsified bird collar telemetry locations.	Wrtn Reprmd	Was careless in performance of duties deliberate falsification not established.
13-PA-0776	Defense Teamsters Local 320	Jacobs, Jeffrey	Termination	Public defender representing family. Violation of ethics & direct orders.	7 mo susp.	Returned to work - no back pay. Mitigation - 13 yrs. service, no discipline.
13-PA-0594 13-PA-0550	North St. Paul, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Demotion 18 day suspension	Sgt said he was going AWOL & left a few minutes before end of shift.	Sustained Wrtn warning	AWOL comment was a joke. 6 times left early no intent (clocks not in sync)
13-PN-0068	Owatonna, City of (Interest Award) Teamsters Local 320	Befort, Stephen	Interest	Officers. 2yrs-e (u-3y); '12-1%; '13-Jan 1%, July 0.5% (e-0%, u-3% both yrs.). Grievance mediation step-n-u; Allow for 12h shift-n-u; Call back/court 2 to 4h-n-e; FLSA OT-n-u; Comp time-n; Seniority vac-no-u; Holiday-same as Sgts; Insur-e Uniform-n-e;Shift pay-n-e;Wrk comp-n-u	2012 - 1% 2013 - 1.5%	Internal pattern. Lack of compelling reasons for proposed changes. Allowing for 12h shift puts 10h at risk. Comp time-both seeking change-no change, Holiday-sgts benefit awarded even though neither side proposed it.
13-PA-0706	Pegquot Lakes, City of Teamsters Local 346	Fogelberg, J.C.	15 day suspension	Officer turned off squad recordings; no permission for ride along; and Facebook posting denigrating the president.	10 days	Common sense does not need to be codified in a policy to find misconduct Suspension reduced due to Dept.errors.
13-PA-0824	Ramsey County AFSCME Minnesota Council 5	Anderson, Richard	40 hr. suspension	Welfare worker refused order to remove child from unlicensed foster home as ordrd by suprv. Judge later barred removal.	Sustained	Refusal to remove child insubordinate but protected activity due to fear for child's safety.
FMCS	Sappi-Cloquet LLC United Steelworkers Local 11-63	Daly, Joseph	Lunch break	Ees have been paid for working .5 hr. unpaid lunch 34% of time.	Sustained	ER ordered to insure ees given .5 hr. unpaid lunch.

August, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
???	Kemp's, LLC Teamsters Local 160	Befort, Stephen	Termination	Lab tech failed to reject milk that tested positive for antibiotics.	Denied	24 yrs. service, no prior discipline, but act threatened public safety.
13-VP-0770	ISD 402, Hendricks (Award-August) ISD 402, Hendricks (Damages) ISD 403, Ivanhoe	O'Toole, Carol	Breach of Contract	Hendricks & Ivanhoe school districts had a contract to divide elementary & secondary classes.	Ivanhoe ISD breached contract	Contract renewed every 2 yrs. unless notice by Jan 1. Ivanhoe opted out in June. Hendricks awarded \$1.2 m.
FMCS	Liberty Carton Company Teamsters Local 970	Gallagher, Thomas	Absences	No-fault attendance policy. Charged 8 hrs. for not working mandatory OT on weekend.	Denied	Approved vac for Fri. exempt ees from weekend off. Same day vac controlled by ee doesn't trump mandatory OT.
13-PA 0789	Metro Transit Amalgamated Transit Union Local 1005	Bognanno, Mario	2 day susp. & Final Warning	Intoxicated female standing over and screaming at driver was pushed away.	Verbal Wrng	ER did not prove unnecessary force. Driver could have given pass more info.
13-PA-0639	Metro Transit Amalgamated Transit Union Local 1005	Neigh, Charlotte	Termination	4 responsible accidents & lack of improvement after retraining.	Denied	Action reasonable despite Union claim accidents were minor & the standard was unilaterally imposed.
FMCS	Ohly Americas Teamsters Local 471	Flagler, John	Cell Phone Ban	Union challenged banning cell phones from lockers and break areas.	Sustained	Ban is unreasonable. Contract provides for reasonable use on breaks.
13-PN-0496	Pine County (Interest Award) Teamsters Local 320	Miller, Richard J	Interest	Deputies. Wages-reached agreement. Uniform:'12-\$725-u (+\$25), '13-\$750-u. Shift diff- update dates-y-u (e-not certified). \$200 bi-weekly Travel Stipend n-e;	2012 - 1.5% 2013 - 1.5%	Uniform-external comparisons & a new uniforms. Shift diff-same benefit, but dates changed (ER-properly certified?) Travel stipend-compensation for losing take home cars-no justification provided.
13-PA-0152	Rochester, City of Operating Engineers, Local 49	Jacobs, Jeffrey	Pay-Temp wrks who are Pub ees.	Back pay due re April 2013 arb award. CBA wages for seasonal/temp, part-time or students if considered public ees.	Back pay-date of grievance	Award based on CBA grievance limits not PELRA nor Statutes. Discussion of student exemption as public ee.
13-PA-0699	Wright County Attorneys Association	Anderson, Richard	Reclassification Adjustments	Contract silent on County Attorneys reclassification adjustment date Union seeking Jan 1st in each of contracts 3 yrs.	Denied	Tentative agreement listed July 1st. ER did not put date in contract. Intent of parties clear.
FMCS	Xcel Energy, Inc. Electrical Workers Local 953	Toenges, Rolland	Rest Time	8hrs rest time paid if 2 call outs 8.5 h before scheduled shift. Is scheduled early start OT a call out? - No.	Denied	Unscheduled call outs & pre-scheduled early reports are not the same so a common meaning is not applicable.

July, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	3M Company United Steelworkers Local 11-00418	Imes, Sharon	Termination	Electrical working under a last chance agreement wired a machine improperly.	Denied	No prints nor engineer available. Like on like wiring but should have caught initial wiring was wrong.
FMCS	Regional Medical Center Minnesota Nurses Association	Jensen, Eugene	Termination	HIPA violation. Nurse accessed & disclosed a minor patient's test results.	Denied	Excellent ee, no prior discipline, yet w clear rules ee didn't admit wrongdoing.
13-PA-0107	Austin, City of Law Enforcement Labor Services, Inc.	Jensen, Eugene	Oral Reprimand	Officer did not grieve in 2010. Prepared letter asking for review/removal in 2012.	Denied	Letter did not extend timeline, nor was it binding on anyone.

13-PA-0665	ISD 347, Willmar Education Minnesota - Willmar	Ogata, Harley	Teaching load for part-time Teachers	U-testing & progress monitoring part of teaching load vs general duty time.	Sustained	"Teaching time" are required duties vs "general duty" availability standard.
13-PA-0418	Maplewood, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	Termination	Officer sexually harassed 19 yr. old crime victim, while seeking to date her.	Denied	10 yr. w no prior discipline, but may move to immediate termination when behavior is egregious.
12-PA-0286	Mendota Heights, City of Law Enforcement Labor Services, Inc.	Kapsch, Frank	1 day suspension	Officer failed to fill out a traffic log. He was confused if it applied to "dog watch".	Denied	Insubordination - 2 priors in past yr. His responsibility to seek clarification.
13-PA-0713	Metro Transit Amalgamated Transit Union Local 1005	Powers, Nancy	Written Warning	Red signal overrun. Train entered cross-walk on red, but stopped immediately.	Denied	U argued temporary inattention - no one injured. ER consistent in applying discipl.
???	Universities Minnesota State College Faculty	Wallin, Gerald	Sabbatical Leave	Chief Admn officer rejected plan "to observe basketball related activities" for his 2 credit coaching basketball class.	Sustained	His Dean approved plan, Same plan approved in 2005. Elimination of BB team in 2009 not relevant.
???	Corrections Employees	Fogelberg, J.C	Termination	Security casewrkr violated boundaries with prisoners.	6 mo susp.	10 yrs. good work history provided mitigation.
13-PA-0022	Roseville, City of Law Enforcement Labor Services, Inc.	Schiavoni, Mary Jo	Education Pay Timeliness	Officer with BA & JD degree credited w only 56.24 quarter credits. A 1.33 vs. 1.5 semester conversion formula used.	Sustained	Timeliness - firm action not notice triggers grievance. Job related criteria too restrictive. 30 semester c=45 (1.5x).
12-PN-0813	Washington County (Interest Award) Association	Miller, Richard	Interest	Jail/Dispatch. Wages-e (u-.5%,.5%). Salary range:'12-1.5%,'13-1.5%-e (u-3%, 3%). Sgts at least 4% above any supervised ee-n-e. Change Shift pay amount & requirement-no-e. Unifrm \$425 to \$530-u Damaged unifrm reimbmsmt grievable-u. Allow Hol. pyramiding-n-e.	2012 - 0% 2013 - 0%	Unsustainable to use fund balance to pay for operating expenses. Wages deviate from Dep arb of 12/28/12, but follow internal pattern. (Dep. on steps vs salary ranges for jail/dispatchers). Unfrm amnt historical ratio w Dep amnt. (No increase to Deputies in arbitration.)
12-PN-0878	Winona County (Interest Award) AFSMCE Minnesota Council 65 (Assistant County Attorneys)	Paull, David	Interest	Wages:'11-0%-e,'12-Jan1%, July1%-e, 13-Jan1%, July1%, Oct1%-e. Add steps-n-e. Insurance: 95%e, 85%f-n-u. Discpl hearing representation lang-n-e. Provide legal counsel to defend ee-n-e. Attempt to amend wage position-n-e	2011 - 0% 2012 - 2% 2013 - 3%	Wages:internal settlemnts & economy. Insur: internal pattern doesn't fit group profile (all on single at 100% so no need to subsidize families). Language items-no compelling reason for change. withdrawn or amended except by mutual except by written mutual consent.

June, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospitals and Clinics - United Hospital SEIU Healthcare Minnesota	Jacobs, Jeffrey	Termination	Care asst. filled out her prescription so she would be able to get refills of a restricted pain pill.	Sustained	Dr. failed to fill out prescription. He told grievant to fill in her name, didn't tell her no refills. Dr. not disciplined.
FMCS	Centerpoint Energy Gas Workers Union Local 340	Kapsch, Francis	Work Schedule	Crew scheduled to work Tuesday through Saturday.	Denied	Mgmt. right to establish which days of week constitute regular workweek. Hours of shifts have been negotiated.

13-PN-0284	Dakota County (Interest Award) Law Enforcement Labor Services, Inc.	Befort, Stephen	Interest	Deputies. Wages-e (u'12-2%+5% at control point, '13-2%). Merit Matrix: 12-0%; '13 base% +lump sum%-e.	2012 - 0% 2013 - 1%	Internal pattern. 73% fund balance not a factor. 2 patterns based on level of insurance coverage. Discussion of Arbitration considerations.
11-PA-0351	Dakota County Law Enforcement Labor Services, Inc.	Fogelberg, J.C.	Written Reprimnd	Deputy didn't immediately respond to Sergeant's call on suspicious parties.	Denied	U claimed Sgt used Code 5 vs 6. Ee failed to be proactive to Sgt's 3 calls.
13-PA-0662	Duluth, City of AFSCME Minnesota Council 5	Miller, Richard	Overtime Pay	Veteran placed on administrative leave due to fitness for duty issues seeking OT pay that could have been earned.	Split	No OT for time ruled unfit for duty, but OT ordered for time leading up to exam & time between fitness & return to wrk.
13-PA-0415	ISD 38, Red Lake Education Minnesota - Red Lake 2007	Latimer, George	Basic Day	1/2 hour added to teacher's work day. Is duty free lunch included in 7h 15m day?	Sustained	Past practice of 7h15m day w lunch. Reinstall old "day"-no monetary award.
13-PA-0438	ISD 93, Carlton Carlton Education Association	Yaeger, Thomas	Early Retirement Incentive	Teacher on unpaid medical leave for 10 years denied severance. Both sides had timeliness challenges.	Sustained	Ee only worked part of her last year. but "75% of their base salary" refers to schedule, not actual earnings.
13-PA-0721	ISD 709, Duluth AFSCME Minnesota Council 5	Gallagher, Sharon	Termination	Failed to disclose former name & convictions on job application.	Denied	Contract list this as just cause which trumps 9 years of exemplary service.
13-TD-0002	ISD 6049, River Bend Ed District Individual Grievant	Befort, Stephen	Termination	Psychologist failed to complete sp. ed. reports within 30 day deadline & falsified. reports & billings.	20 day susp	Failed to prove fraudulent intent, so statute requires teacher to receive a warning & chance to correct behavior.
13-PA-0638	Metro Transit Amalgamated Transit Union Local 1005	Fogelberg, J.C	Class A Warning	Suprvs told train driver to detour, that switches were lined. New suprvs came on duty, changed switch. Driver failed to stop for the switch.	Class B Warning	Driver has responsibility to check each switch, but penalty excessive since suprv who negligently cycled the yard switches was not disciplined.
???	Minnesota, State of, Department of Revenue Minnesota Association of Professional Employees	Imes, Sharon	Termination	Falsely reported time worked and violated computer use policies.	30 day susp	Exempt ee told by suprv to enter 8 hrs. per day. Termination letter didn't indicate which part of the policy was violated. No prior discipline.
13-PA-0472	Ramsey County Teamsters Local 320	O'Toole Carol	Termination	Corrections Sgt. falsified time record, violated off-duty work policy & used sick time so he could coach hockey.	Denied	Lack of prior discipline & failure to write up counseling were overcome by transgressions that are so serious.
13-PA-0556	Saint Cloud, City of Law Enforcement Labor Services, Inc.	Lundberg, James	Denying Vacation	2 officers vac requests denied. Chief limited vac to 2 weeks to control OT.	Sustained	Contract doesn't support vac denial. Practice defined appropriate denials.
12-PN-1088	Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc.	Powers, Nancy	Interest	Sgts: Duration-3yrs-e (u-2y); Wages-12-0%-e (u-3%), '13-14-parties agree; Insur-50% inc v \$-u; Vac cash out-n-e; Add FI Hol-n-e; Comp time-n-e; Court time-3 hr.-u; Seniority bidding-n-e.	2012 - 0% 2013 - 2% 2014 - 2%	May Arb- officers 0%, 3%, 3%. Sgts agreed to pattern '13-2%, '14-2% but wanted 2% in '12 for 6% officer's total. Court time 3hrs=officers. U insurance position closest to current language.
12-PN-1205	Traverse County (Interest Award) Law Enforcement Labor Services, Inc.	Scoville, James	Interest	Deputies wages: '12-1%-e (u-6.2%)	2012 - 1%	Internal pattern. Insurance used by ER for external compensation comparison.

May, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
13-PA-0248	Dakota County Human Services Supervisors Assn	Jacobs, Jeffrey	Termination	Probation officer's husband had grow and sell operation on her property.	Denied	Serious misconduct & clear showing of nexus to work activity.
13-PN-0089	Dakota County (Interest Award) Law Enforcement Labor Services, Inc.	Johnson, John	Interest	Sergeants. Wages-e (u'12-2%+5% at control point, '13-2%). Merit Matrix: 12-0%; '13 base% +lump sum%-e.	2012 - 0% 2013 - 1%	Internal pattern. There are 2 patterns based on level of Insurance coverage. County has 73.64% fund balance.
13-PA-0040 13-PA-0651	Goodhue County Law Enforcement Labor Services, Inc.	O'Toole, Carol	Injury on duty	Workers comp paid 2/3 salary w 1/3 deducted from sick leave if ee desired. Ee requested full pay w/o deduction.	Denied	Contract ambiguous. 25 years of past practice.
13-PA-0428	Hennepin County Medical Center EMT's	Beens, Richard	Overtime	EMT signed up for OT to work Twins game, but position given to EMT as a regular assignment for the day.	Denied	ER has right to determine need for OT and has right to change schedules to avoid OT.
12 PN 1309	ISD 485, Royaltan (Interest Award) Royaltan Federation of Teachers	Latimer, George	Interest	Wages-u, (e '12-0%,'13-0%). Mediated. agreement of 0%, 2% rejected by ER.	2012 - 1% 2013 - 1%	Retaining standing in comparison group outweighed ability to pay.
13-PA- 0463	ISD 748, Sartell-St. Stephen School Service Employees Local 284	Remington, John	Senior Qualified Selection	External candidate selected for Admin Assistant over 3 internal candidates.	Sustained	"Senior qualified" = sufficient ability. ER prohibited from comparing relative abilities of qualified applicants.
???	Maple Grove, City of Veteran's Preference	Befort, Stephen	Termination - V.P.	P.T. firefighter refused to participate in performance improvemnt plan. Fired 2nd time for offensive & threatening emails.	Denied	Performance problems & refusal to accept plan make firing reasonable. Still on payroll when fired 2nd time.
13-PA-0511	Metro Transit Amalgamated Transit Union Local 1005	Jacobs, Jeffrey	Termination	Driver told female student to leave bus, she pushed him out of bus-he slapped back of her head.	6 month susp.	Similar cases did not result in firing. Returned w no back pay & 3 yr. final notice of warning.
13-RA-0075	Employees Union Local 12	Beens, Richard	Termination	BA obtained & forwarded confidential letter of her ER, relating to negotiations, to her union steward.	Denied	Rules on untrustworthiness & conflict of interest need not be promulgated
???	Universities Inter-Faculty Organization	Gallagher, Thomas	Overload Assignment	Teacher denied overload assignment due to budget concerns. Adjunct teacher hired at lower rate.	Sustained	Contract has "offer-overload-unless" requirement. Budget not a consideration. Earnings + punitive amount for loss of pension benefit awarded.
12-VP-1300	Minnetrista, City of Individual Grievant	Kapsch, Frank	Termination - V.P.	Water Treatment Op - 8 yrs. service.	Denied	G sent resignation letter in lieu of brief.
13-PA-0226	Scott County Law Enforcement Labor Services, Inc.	Beens, Richard	Out of Title Pay	In absence of a Sgt, should Sr. Deputy receive deputy-in-charge pay? - no.	Denied	Contract requires deputy be assigned.
13-PN-0018	Stillwater, City of (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	Wages: '12-0%-e (u-3%), '13 &'14-u (e-2%, 2%). Insurance '13-e;'14-reopener.. Limit single to cost of base plan-no-u.	2012 - 0% 2013 - 3% 2014 - 3%	Wages-external-lost ranking since 2006 & only 1 intrnl settlement. Ins- amt intrnl pattern. Must neg Single ins.

12-PN-0968	Wright County (Interest Award) Wright County Deputies Association	Befort, Stephen	Interest	Wages-e (u-3%,3%,3%); Steps on anniv vs Jan 1-no-e; Longevity pay-n-e; On call \$30 to \$50-y-u; Court Time 3 hours-no-e; Uniform \$650,\$675,\$700-e (u-\$70,-,\$750,\$800); Increase Vac-no-e; change Vac/Sick use-n-u; Def of child-y-e; Incr Severance-n-e; Funeral Leave-u; Change Floating Holiday-no-u.	2012 - 0% 2013 - 0% 2014 - 1%	Wages internal - did not change comparison group. Longevity-e, On Call-u, Uniform-e, Vac-e, Def of Child-e Severance-e, all based on internal pattern. Remaining issues failed for lack of compelling reason to change.
------------	--	-----------------	----------	--	-------------------------------------	---

April, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Medical Transportation IAEP Local 167	Befort, Stephen	Termination	Ambulance driver failed to respond to code 3 with lights and siren.	Denied	Expeditious response is essence of driver's job.
13-PA-0661	Duluth, City of AFSCME Minnesota Council 5	Johnson, John	Demotion	Sr Engineering Tech-5d susp&demotd. Grievance timeline missed but City didn't present demotion to Civil Service Board. Can city take Vac to correct overpaying?	Denied	Only non-displn demotions go to Civil Service. Contract grievance v Civil Service discussed. No contract bar to recovering overpayment from vac time.
12-PN-1086	Faribault County (Interest Award) Law Enforcement Labor Services, Inc.	Toenges, Rolland	Interest	Wages:'12-1.25%, '13-0%-e (u-2.5%, 2.5%). Insurance - e.	2012 - 1.25% 2013 - 0%	Internal pattern, overall economy & fund balance of only 23%.
13-PA-0575	Hennepin County AFSCME Minnesota Council 5	Beens, Richard	Termination	Senior Social worker's errors & failure to complete cases.	Denied	6 years substandard performance in spite of counseling, training & discipline.
FMCS	Lutheran Care Center United Steelworkers Local 9230	Daly, Joe	Termination	Nursing assistant yelling and swearing in presence of residents.	Denied	Just cause to skip progressive steps for her unprofessional behavior.
12 PN 1191	McLeod County (Interest Award) Law Enforcement Labor Services, Inc.	O'Toole, Carol	Interest	Wages-e; Range movement '12-1.5% '13-1.75%-u; Top lump sum \$.30,\$.40.	2012 - 0% 2013 - 0%	Sgt wages-internal pattern. Range movement equal to deputies.
13-PA-0462	Metro Transit Amalgamated Transit Union Local 1005	Jacobs, Jeffrey	Class A warning	LRT operator failed to enter pre-trip data (B violation) then went through a resulting red signal by 18 inches.	Denied	It does not matter by how much the signal was violated nor if there was actual damage.
13 PA 0460	Metro Transit Amalgamated Transit Union Local 1005	Kircher, Andrea	20 day suspension	Driver violated cell phone safety policy by failing to turn off & having Bluetooth device in pocket.	2 day susp.	17 yrs. service & phone was not being used. Suspension reduce and final record of warning removed.
13-PA-0152	Rochester, City of Operating Engineers Local 49	Jacobs, Jeffrey	Part Time/ Seasonal pay	City failed to pay Union rates. Cited 40 yrs. of past practice where Park Board set pay rate for seasonal ees. See August 2013 award for remedy.	Sustained	Contract denies benefits for part timers but not wages. Discussion of past practice; Ramsey Co v AFSME, 1981 Supreme Ct case & doctrine of latches.
13-PA-0405 13-PA-0406	Waseca County Teamsters Local 320	Jacobs, Jeffrey	Pay grievances	Wage calculations to implement a a revised salary range.	Sustained	Award based on Commissioners resolution of similar claim.

March, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Allina Hospitals and Clinics - United Hospital SEIU Healthcare Minnesota	Jacobs, Jeffrey	Termination	Asked to stock "block cart" by a co-worker, Refused, went on break. Similar discipline in '04, '05 & '11.	Denied	Negotiated LOU allows ER to use repeated patterned behavior despite amount of time between incidents.
12-PA-1103	Blaine, City of Law Enforcement Labor Services, Inc.	Bognanno, Mario	4 day suspension	Failure to follow procedure re towing a trailer suspected of being stolen.	Split	Suspension stands. 2 charges not proven & references removed from file.
13-VP-0153	Brooklyn Park, City of Individual Grievant	Paull, David	Termination - V.P.	Probationary off. continued teaching. despite bar to off-duty wk while training.	3 day susp.	Failure to timely enforce led to belief actions were acceptable.
13-PA-0118	Clay County Law Enforcement Labor Services, Inc.	Lundberg, James	Termination	Eden Prairie PD reported K9 deputy drunk at motel pool late night party. And failing to self report.	Sustained	Wrong deputy identified. Rule and orders given during investigation lacked clarity.
12-PA-1169	Dakota Communications Center Law Enforcement Labor Services, Inc.	Dunn, Richard	3 day suspension	Dispatched officer to check welfare vs. sending medics for childbirth call.	2 day susp.	Significant recent disciplinary history but performance rating is satisfactory.
12-PA-1279	Mendota Heights, City of Law Enforcement Labor Services, Inc.	Ogata, Harley	1 day suspension	Officer called to assist driver who was stuck. Failed to de-escalate situation.	Wrtn reprimd	Lack of progressive discipline. Prior reprimand 12 yrs. old therefore stale. ER's process errors didn't harm ee.
FMCS	Red Wing Shoe Company Local 527	VerPloeg, Christine	Part-time employees	PT & temps hired "to meet production demands" when there was no such need.	Denied	Phrase describes type of work, not amount. No full time ees laid off.

February, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
AAA	ADT Security Services, Inc. IBEW Local 110	Sherwood	Travel Pay	1st hr. of commute time from home is not paid. Should 1st hr. commute from hotel to work site be deducted? - No.	Sustained	Nothing to suggest "home" is a term of art vs the dictionary definition."Home of record" is address on file w company.
11-PA 1013	Austin, City of Austin Employees' Association	Jacobs, Jeffrey	Vacation Eligibility	Conflicting language--vacation credited on anniversary date or January 1st?	Sustained	Language added later is precedence where there is an inconsistency.
12-PN-0906	Award Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wages ('12&'13 u-2%+.05%;e-!%,1%) Longevity-add \$20 to 16yr step-u; Det. pay \$35/m-u; On call-no change-e; Insurance-contribution reduced-e	2012 - 2% 2013 - 2%	Wages-2% internal pattern. Longevity external comparison. Detective incrs external. Insurance-internal & rate dropped by 17% to 20%.
13-PA-0417	Duluth, City of AFSCME Minnesota Council 5	Jacobs, Jeffrey	Long Term Disability	Placed on LTD w/o ees request and before 120 sick days exhausted.	Sustained	120 sick days per year guaranteed by contract.
12-PN-0906	Hennepin County (Interest Award) Work Supervisory Employees Organization	Latimer, George	Interest	'12-no step,\$500 lump sum-e(u-steps + 5%);'13-step+1.5%-e (u-steps+5%); on call increase. Pay for license-no-e.	2012 - \$500 2013 - 1.5%	Wages-expanded duties didn't require large wage increase- internal pattern. On call & License-history & pattern.
13-PA-0197	ISD 197, West St. Paul SEIU Local 284	Ogata, Harley	Termination - V.P.	Failed to stop 2 kindergarten girls from sexually assaulting a 1st grader.	Denied	May not have seen assault but failed to control unruly behavior on bus.
13 PA 0081	ISD 740, Melrose Operating Engineers Local 70	Remington, John	Bargaining Unit Work	Supervisors doing custodial work. 50% - no; 2.75 hours/day - okay.	Split	Can assign Unit work if less than 14 hours per week or 2.75 hours per day.

12-PA-0817	ISD 2142, St. Louis County Education Minnesota - St. Louis County	Gallagher, Sharon	Q comp/continuing Contract.	Refusal to pay earned Q Comp until new contract negotiated.	Denied	Historically haven't paid steps before new contract. Q comp MOU expired.
13-PA-0097	Ramsey County AFSCME Minnesota Council t	O'Toole, Carol	Reduction of Hours	Hours reduced at Lake Owasso Residence due to budget cuts.	Denied	Reduction in hours based on seniority. Intermittent employees released.
13-PA-0267	Starbuck, City of AFSCME Minnesota Council 5	Miller, Richard	Termination	Clerk/Treasurer's conflict with council over communication, budget/finance insubordination & attitude.	20 day susp.	Terminated after only 2 reprimands. Nothing so serious to eliminate need for progressive discipline
12-PA-1280	Welcome, City of Electrical Workers Local 160	Daly, Joseph	Bargaining Unit Work	City wants to hire Pub Works Director who would do bargaining unit work	Sustained	Can hire lead worker or foreman but a supervisor can't do unit work.

January, 2013

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
12-PN-0380	Carver County Teamsters Local 320	VerPloeg, Christine	Interest Detention/Dispatch	'12-July 1% to min, .5% to max-e; '13-Jul 1.75%min,1.25%max-e (u-4%,4%); Step-no-e (u-4.5%); Market adjustment for dispatch-no-e (u-7%); Severance increase-yes-u; Uniform & Shift diff increases-no-e.	2012 - 0.5% 2013 - 1.25%	Wages-internal. Steps-negotiated away in 2009. Dispatch mrkt. adjstmt did not include longevity comparison. Severance-internal. Uniform & shift differential-internal.
12-PA-1219	Duluth, City of AFSCME Minnesota Council 5	Befort, Stephen	5 day suspension	Gross insubordination for failing to cooperate in fitness for duty exam.	Denied	A severe breach of discipline did not require progressive discipline.
12-PN-1005	Glencoe, City of (Interest) Glencoe Federation of Police	James Lundberg	Interest	Officers. 2012-2%-u (e-2%if HSA is same as other ee's). H.S.A.\$2,040-u (e-\$1610).	2012 - 2%	Wages pattern. H.S.A. set at 68% in current contract. ER failed to establish need for change, thus \$2,040.
???	Minneapolis, City of Operating Engineers Local 70	Imes, Sharon	Pay rate for temp assignments.	Should temp assigned ees receive as wages the amount the exclusive rep negotiated for their union pension fund?	Sustained	Although Local 363 agreed to reduce wage rate by amount City forwards to union pension fund it didn't negotiate reduced wage rate.
12-PA-0324	Oakdale, City of Law Enforcement Labor Services, Inc.	Latimer, George	O.T. Distribution	Contract requires OT be equitable. OT offered to highest vs lowest earner.	Denied	Triple homicide - case falls outside normal circumstances.
12-PA-0355	Three Rivers Park District Law Enforcement Labor Services, Inc.	O'Toole, Carol	Demotion	New sergeant left area w/o notifying dispatch. Met w Champlin officer to obtain info on purchasing steroids.	Denied	Lack of judgment needed of sergeant. Claimed only doing research-should have used internet.
???	Twin City Hospital Workers Pension Fund, Union Trustees Twin City Hospital Workers Pension Fund, Employer Trustees	Gallagher, Thomas	Increase disability pension?	Pension trustees at impasse. Union asked Arbitrator to award their proposal to increase benefit.	Union position	Benefit last increased in 1985. Union proposal less than CPI increase.